

EXHIBIT 3

1 A. Well I'm not sure. I don't know.

2 Q. Now, are, are you aware that --
3 well let me back up a second. Withdrawn.

4 Exhibit 4 was marked for
5 identification by the reporter.)

6 Q. (BY MR. SIMSHAUSER) Mr. Hathaway,
7 handing you what's been marked Exhibit 4. Do you
8 recognize that?

9 A. Yes.

10 Q. And is that your signature at the
11 bottom of the page there, sir?

12 A. Yes, it is.

13 Q. And do you understand that your
14 attorneys are seeking to conduct extra discovery
15 in this case?

16 A. What's that mean?

17 Q. Well, let me -- let me show you on
18 the exhibit here where you say in the first
19 sentence that you certify you've discussed the
20 scope of discovery in this action with your
21 counsel, correct do you see that?

22 A. Uh-huh. Uh-huh.

23 Q. And in the next sentence you say
24 you consent to any effort by your counsel to seek
25 discovery events that exceed the presumptive

1 limits set forth in the Federal rules of civil
2 road and the local rules for the United States
3 district court for the district of Massachusetts;
4 do you see that?

5 A. Yes, sir.

6 Q. What does that mean to you?

7 A. I'm not really sure.

8 Q. Was this just a page that was given
9 to you to sign by the attorneys and you signed it
10 because they told you to?

11 A. Yeah. I read it. But I didn't
12 understand it.

13 Q. And you signed it because they told
14 you to, right?

15 A. Well I signed it.

16 Q. Okay. And you understood they
17 wanted you to sign it correct?

18 MR. GRADY: Objection. Don't
19 answer those questions.

20 MR. SIMSHAUSER: That's an
21 instruction?

22 MR. GRADY: It is an instruction.
23 What we want and what we discussed is privileged.

24 MR. SIMSHAUSER: I just asked I
25 asked a yes or no question. When it says seek

1 discovery events that exceed the limits and the
2 rules do you know what discovery events are?

3 A. No.

4 Q. Do you know what the limits are in
5 the rules for discovery events?

6 A. No.

7 Q. Do you know how many depositions
8 your lawyers have taken in this case?

9 A. No.

10 Q. Do you know -- do you know who
11 they've taken depositions from?

12 A. No, I don't.

13 Q. Can you identify a single person
14 who your lawyers have taken depositions from in
15 this case?

16 A. Depositions what are you talking
17 to?

18 Q. What we're doing here is a
19 deposition, right?

20 A. None that I know of.

21 Q. Do you know how many depositions
22 your lawyers want to take in this case?

23 A. No, I don't.

24 Q. , who's paying your lawyers to take
25 the depositions they take in this case?